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70. (New) The device according to claim 38, wherein the first and second pull wires are positioned within the hollow portion for a substantial length of the hollow portion. --

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(cont)

REMARKS

Claims 22-24, 27, 33-37, 39-44, 46-48, 51, 57-62, and 64-70 are pending.

In the Office Action, the Examiner rejected claims 26, 32, and 46-63 under 35 U.S.C. §112, second paragraph, as being indefinite; rejected claims 22, 23, 25-34 and 43, 46, 47, and 49-58 under 35 U.S.C. §102(b) as being anticipated by Nierman (U.S. Patent No. 4,880,015); rejected claims 24, 36-42, 48, 60 and 61 under 35 U.S.C. §103(a) as being unpatentable over Nierman in view of Salerno (U.S. Patent No. 4,953,559); rejected claims 35, 44, 45, 59, 62 and 63 under 35 U.S.C. §103(a) as being unpatentable over Nierman in view of Macek et al. (U.S. Patent No. 4,763,668); and rejected claims 22-63 under the judicially created doctrine of double patenting over claims 1-3 of U.S. Patent No. 5,133,727 and over claims 1-21 of U.S. Patent No. 5,507,296.

Claims 26, 32, and 46-63 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner stated that "the claims lack the structure necessary to provide the support for a pivotably disposed jaw." Applicants have amended the claims to recite, for example, that the

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jaw is "pivotably disposed about a pivotal axis and with respect to the second jaw." Therefore, this rejection should be withdrawn. The Examiner also objected to claim language in claims 26, 32, 50 and 56. As these claims have been cancelled, this rejection is moot.

Claims 22-63 have been rejected as being anticipated by Nierman alone or as being unpatentable over Nierman in view of Salerno or Macek et al.. These rejections are respectfully traversed insofar as the rejection is applicable to the amended and new claims.

Independent claim 22 is directed toward a biopsy forceps device that includes, among other things, an end effector assembly having first and second jaws. Each jaw includes a generally U-shaped configuration defining a center point and having a distalmost end. An edge of the distalmost end of each of the jaws includes teeth radially disposed about the center point. Claim 46 recites an end effector assembly having similar structure.

The invention recited in the above claims is not disclosed or suggested by Nierman, Salerno, or Macek et al., taken singly or in combination. None of the references discloses or suggests, among other things, an end effector assembly wherein each of the first and second jaws includes a generally U-shaped configuration defining a center point and having a distalmost end, wherein an edge of the distalmost end of each of the jaws includes teeth radially disposed about the center point. As shown for example in Figure 3 of the instant application, "each jaw 18 has on its distalmost end, an array of teeth 20 generally radially directed about a

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point R." (Page 6, lines 24-26 of the specification). None of the prior art discloses or suggests such an arrangement.

As explained in this application, the radial arrangement of the teeth about the center point allows the jaws to be made less expensively than typical prior art jaws. The radial arrangement of the teeth also provides for automatic mating and proper alignment of the jaws when they close. This self-aligning feature due to the radial arrangement permits the jaws to be manufactured by casting, which permits looser tolerances. Typical prior art jaws are made by machining. By providing the radial arrangement of the instant invention, the same casting can be used for both the upper and lower jaws of the assembly. The use of an investment casting technique to produce the jaws of the instant invention is less expensive, without losing any of the effectiveness of the jaws.

Nierman discloses a biopsy forceps device with two jaws 46. The jaws of Nierman project on a straight line and do not include teeth on the distalmost end. The distalmost end of each of the jaws appears to be straight. No portion of the jaws includes a generally U-shaped configuration defining a center point and having a distalmost end. Nierman also does not disclose, among other things, an edge of the distalmost end of each of the jaws including teeth radially disposed about a center point.

Neither Salerno nor Macek et al. cure the deficiencies of Nierman. The dependent claims patentably distinguish over Nierman, Salerno, and Macek et al. for at least the same reasons as claims 22 and 46 from which these claims depend, as well as for the additional features of these claims.

The Examiner also rejected the claims under the doctrine of double patenting. Upon allowance of claims requiring a terminal disclaimer, Applicants will submit a suitable terminal disclaimer.

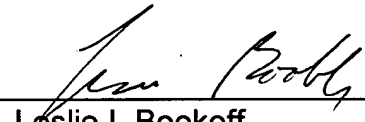
In view of these amendments and remarks, please reconsider pending claims 22-24, 27, 33-37, 39-44, 46-48, 51, 57-62, and 64-70, and allow them to issue. If a conference would help expedite prosecution, please call the undersigned representative of Applicant at (202) 408-4140 to arrange such a conference.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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By: _____


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